

# BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 ) MUR 4831  
 Nixon Campaign Fund ) MUR 5274  
 and John C. Lanham, as Treasurer )

## CONCILIATION AGREEMENT

Matter Under Review 4831 was initiated by a signed, sworn, and notarized complaint by John Hancock, Executive Director of the Missouri Republican Party. Matter Under Review 5274 was initiated by the Federal Election Commission ("Commission"), pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. An investigation was conducted and the Federal Election Commission ("Commission") found probable cause to believe that the Nixon Campaign Fund and John C. Lanham, as treasurer ("the Respondent" or "the NCF") failed to report the receipt of contributions earmarked for Missouri Senate candidate Jeremiah "Jay" Nixon ("Nixon") in violation of 11 C.F.R. § 110.6(c)(2). In addition, the Commission found probable cause to believe that the NCF accepted excessive contributions in violation of 2 U.S.C. § 441a(f).

NOW, THEREFORE, the Commission and the Respondent, having duly entered into conciliation pursuant to 2 U.S.C. § 437g(a)(4)(A)(i), do hereby agree as follows:

I. The Commission has jurisdiction over the NCF and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. § 437g(a)(4)(A)(i).

II. The NCF has had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. The NCF enters voluntarily into this agreement with the Commission.

24.04.406.4651

IV. The pertinent facts in this matter are as follows:

1. The NCF was Nixon's principal campaign committee during his 1998 campaign for the U.S. Senate and a political committee within the meaning of 2 U.S.C. § 431(4).
2. John C. Lanham is the treasurer of the NCF.

Earmarked Contributions

3. Section 110.6(c)(2) of Title 11 of the Code of Federal Regulations requires a committee that receives earmarked contributions through a conduit to report the contributions to the Commission. 11 C.F.R. § 110.6(c)(2).

4. The NCF, in a written solicitation, asked its supporters to make contributions to the MDSC. The language of the solicitation can be interpreted as a request that contributors earmark their contributions to the MDSC for Nixon's benefit.

5. Between August and November 1998, the Missouri Democratic State Committee ("MDSC") accepted approximately \$19,285 in contributions that bore indicia of earmarking for Nixon or the NCF.

6. Some of the contributions consisted of checks, the memo lines of which were annotated, "Nixon," "Nixon-Win," "J. Nixon Fund," "Jay Nixon Campaign Contribution" and "Nixon, not for Skelton or Danner." In two instances, contributors enclosed their contributions with letters stating that their contributions were "to aid in" the Nixon campaign or instructing the MDSC to spend the money on Nixon. Two of the contribution checks were originally written to the NCF, but deposited by the MDSC. Several checks were attached to NCF campaign materials. Almost all of the checks were deposited by the MDSC with deposit slips and/or bank documentation labeled, "Nixon" or "Nixon S." The MDSC deposited all of these contributions

into a bank account, which it then used to fund coordinated expenditures for Nixon pursuant to 2 U.S.C. § 441a(d).

7. The NCF did not report these contributions it received from the MDSC.

Excessive Contributions

8. Under applicable statutory provisions, no person shall make contributions to any candidate and his authorized political committees with regard to any election for Federal office, that, in the aggregate, exceed \$1,000. 2 U.S.C. § 441a(a)(1)(A). No multicandidate political committee shall make contributions to any candidate and his authorized political committees with regard to any election for Federal office that, in the aggregate, exceed \$5,000. 2 U.S.C. § 441a(a)(2)(A). No candidate or political committee shall knowingly accept any contribution in violation of 2 U.S.C. § 441a. 2 U.S.C. § 441a(f). No officer or employee of a political committee shall knowingly accept a contribution made for the benefit or use of a candidate in violation of any limitation imposed on contributions under 2 U.S.C. § 441a. 2 U.S.C. § 441a(f).

9. A contribution that is earmarked for a candidate shall be treated as a contribution from such person to such candidate. 2 U.S.C. § 441a(a)(8) and 11 C.F.R. § 110.6(a).

10. The approximately \$19,285 in contributions to the MDSC that were earmarked for Nixon must be treated as contributions to Nixon.

11. Of the approximately \$19,285 in contributions the MDSC received that were earmarked for Nixon, approximately \$7,750 were in excess of the limit for individual or committee contributions to Nixon. 2 U.S.C. §§ 441a(a)(1)(A) and 441a(a)(2)(A).

V. The NCF failed to report its receipt of earmarked contributions in violation of 11 C.F.R. § 110.6(c)(2).

VI. The NCF accepted excessive contributions in the amount of approximately \$7,750 in violation of 2 U.S.C. § 441a(f).

VII. The Commission does not allege and there is no finding herein that Jeremiah ("Jay") Nixon engaged in any wrongdoing in connection with the findings of this Agreement.

VIII. The Commission does not allege and there is no finding herein that the NCF accepted any contributions from a prohibited source (i.e., corporations, government contractors, or foreign nationals) or that it knowingly or willfully violated 2 U.S.C. § 441a(f).

IX. The NCF will pay a civil penalty to the Federal Election Commission in the amount of \$9,500.

X. The NCF will exercise reasonable efforts to refund the excessive contributions listed in Appendix A. NCF will attempt to locate current addresses for the six (6) contributors listed in Appendix A and send the contributors letters encouraging them to cash their refund checks. Failure of the NCF to effectuate delivery of the refund checks or failure of the recipient to negotiate the check shall not effect the validity of this Conciliation Agreement and, thirty (30) days after mailing this aspect of the Conciliation Agreement will be deemed closed whether or not the refund checks have been negotiated. The NCF will retain its documentation demonstrating compliance with the terms of this paragraph for a period of at least three (3) months after the checks become stale under applicable laws.

XI. The NCF will cease and desist from violating 2 U.S.C. § 441a(f) and 11 C.F.R. § 110.6(c)(2).

XII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance

with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

XIII. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

XIV. Except as specified in Paragraph X, the NCF shall have no more than 30 days from the date this agreement becomes effective to comply with and implement the requirement(s) contained in this agreement and to so notify the Commission.

XV. The execution of this agreement disposes of all issues raised in Matters Under Review 4831 and 5274.

XVI. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.


FOR THE COMMISSION:

Lawrence H. Norton  
General Counsel

BY:

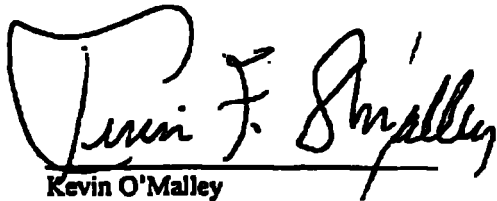
  
Gregory R. Baker  
Acting Associate General Counsel

Date

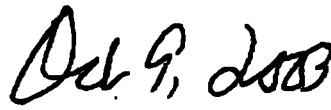
  
10/16/03

FOR THE NIXON CAMPAIGN FUND:

24-04-406-4655



Kevin O'Malley  
Counsel



Date

24.04.406.4656

**Appendix A**  
**(Refunds of Excessive Contributions)**

<u>Contributor</u>	<u>Amount of Refund</u>
John Hopkins	\$2,000
Richard Galamba	\$1,000
John Norton	\$1,000
C-III, LLC	\$500
Phillip Grubaugh	\$250
Osage National Golf Club	\$3,000